

**Fiscal:** Fiscal impact issued

**Revenue:** No Revenue Impact

---

**Action Date:** 04/20/15

**Action:** Do Pass As Amended And Be Printed Engrossed.

**Meeting Dates:** 02/09, 03/18, 04/20

**Vote:**

Yeas: 6 - Barton, Doherty, Evans, Fagan, Holvey, Nosse

Nays: 5 - Barreto, Esquivel, Heard, Kennemer, Weidner

**Prepared By:** Jan Nordlund, Committee Administrator

---

**WHAT THE MEASURE DOES:**

Authorizes Labor Commissioner to issue temporary cease and desist order when there is reason to believe statutes governing prevailing wage rate, farm and construction labor contractors, wage and hour, or employment conditions have been violated. Allows employer to provide a bond in lieu of payment if temporary cease and desist order mandates compensation to an employee in an amount disputed by the employer. Establishes process for employer to contest temporary cease and desist order and allows court to award attorney fees to employer for proceedings contesting a temporary cease and desist order. Prohibits Commissioner from enforcing temporary cease and desist order issued under this section that would preclude the ongoing harvest or distribution of perishable agricultural products but allows such order to be enforced after completion of harvest or distribution that was in progress at time the order was issued. Authorizes Labor Commissioner to impose civil penalty when employer fails to pay wages on regular payday. Authorizes Labor Commissioner to administratively compel employer to provide bond when employer fails to establish and maintain a regular payday.

**ISSUES DISCUSSED:**

- Due process available to employer faced with temporary cease and desist order
- Other actions Bureau of Labor and Industries can take to address employers who repeatedly violate laws
- Appropriate level of authority granted to Labor Commissioner
- “Reason to believe” as standard to issue a temporary cease and desist order
- Order to cease and desist the unlawful practice

**EFFECT OF COMMITTEE AMENDMENT:**

Prohibits Commissioner from enforcing temporary cease and desist order issued under this section that would preclude the ongoing harvest or distribution of perishable agricultural products but allows such order to be enforced after completion of harvest or distribution that was in progress at time the order was issued. Adds previous pattern of violations and other credible information to list of factors on which Commissioner may base his “reason to believe” that an employer has violated certain laws. Allows employer to provide a bond in lieu of payment if temporary cease and desist order mandates compensation to an employee in an amount disputed by the employer. Allows employer to request a hearing to contest all or part of temporary cease and desist order. Requires administrative law judge to schedule such hearing to take place within 30 days after Commissioner receives request from employer. Requires administrative law judge to issue findings, exceptions and order within 30 days of close of hearing. Allows court to award attorney fees to employer for any proceeding contesting a temporary cease and desist order.

**BACKGROUND:**

The Bureau of Labor and Industries (BOLI), under the direction of the Labor Commissioner, is responsible for, among other things, protecting the rights of workers and citizens to equal, non-discriminatory treatment through the enforcement of anti-discrimination laws that apply to workplaces, housing and public accommodations. It is also responsible for encouraging and enforcing compliance with state laws relating to wages, hours, terms and conditions of employment.

Chapter 651 of the Oregon Revised Statutes (ORS) provides for the general authority of the Labor Commissioner and BOLI. Several individual chapters of the Oregon Revised Statutes establish the specific laws for wages, hours, and terms and conditions of employment as well as the Commissioner's specific authority to enforce those laws. Chapter 659A (civil rights) provides the Commissioner with authority to issue a temporary cease and desist order for specified alleged unlawful practices.

House Bill 2386-B adds provisions to Chapter 651 that give the Labor Commissioner authority to issue a temporary cease and desist order, requiring an employer to refrain from an alleged unlawful practice related to the prevailing wage rate, wage and hour standards, employment conditions, and farm and construction labor contractors. The measure establishes a process by which the employer may request a hearing to contest a temporary cease and desist order, and it allows the court to award attorney fees to the employer contesting a temporary cease and desist order. House Bill 2386-B also prohibits the Commissioner from enforcing a temporary cease and desist order that would preclude the harvest or distribution of perishable agricultural products. Finally, the measure provides BOLI with authority to impose a civil penalty and require a bond when the employer does not pay wages on an established payday.